

## Department of Veterans Affairs

## § 19.75

§§ 19.39–19.49 [Reserved]

### Subpart C—Administrative Appeals

#### § 19.50 Nature and form of administrative appeal.

(a) *General.* An administrative appeal from an agency of original jurisdiction determination is an appeal taken by an official of the Department of Veterans Affairs authorized to do so to resolve a conflict of opinion or a question pertaining to a claim involving benefits under laws administered by the Department of Veterans Affairs. Such appeals may be taken not only from determinations involving dissenting opinions, but also from unanimous determinations denying or allowing the benefit claimed in whole or in part.

(b) *Form of Appeal.* An administrative appeal is entered by a memorandum entitled “Administrative Appeal” in which the issues and the basis for the appeal are set forth.

(Authority: 38 U.S.C. 7106)

#### § 19.51 Officials authorized to file administrative appeals and time limits for filing.

The Secretary of Veterans Affairs authorizes certain officials of the Department of Veterans Affairs to file administrative appeals within specified time limits, as follows:

(a) *Central Office*—(1) *Officials.* The Under Secretary for Benefits or a service director of the Veterans Benefits Administration, the Under Secretary for Health or a service director of the Veterans Health Administration, and the General Counsel.

(2) *Time limit.* Such officials must file an administrative appeal within 1 year from the date of mailing notice of such determination to the claimant.

(b) *Agencies of original jurisdiction*—(1) *Officials.* Directors, adjudication officers, and officials at comparable levels in field offices deciding any claims for benefits, from any determination originating within their established jurisdiction.

(2) *Time limit.* The Director or comparable official must file an administrative appeal within 6 months from the date of mailing notice of the deter-

mination to the claimant. Officials below the level of Director must do so within 60 days from such date.

(c) *The date of mailing.* With respect to paragraphs (a) and (b) of this section, the date of mailing notice of the determination to the claimant will be presumed to be the same as the date of the letter of notification to the claimant.

(Authority: 38 U.S.C. 7106)

[57 FR 4104, Feb. 3, 1992, as amended at 61 FR 20449, May 7, 1996]

#### § 19.52 Notification to claimant of filing of administrative appeal.

When an administrative appeal is entered, the claimant and his or her representative, if any, will be promptly furnished a copy of the memorandum entitled “Administrative Appeal,” or an adequate summary thereof, outlining the question at issue. They will be allowed a period of 60 days to join in the appeal if they so desire. The claimant will also be advised of the effect of such action and of the preservation of normal appeal rights if he or she does not elect to join in the administrative appeal.

(Authority: 38 U.S.C. 7106)

#### § 19.53 Restriction as to change in payments pending determination of administrative appeals.

If an administrative appeal is taken from a review or determination by the agency of original jurisdiction pursuant to §§ 19.50 and 19.51 of this part, that review or determination may not be used to effect any change in payments until after a decision is made by the Board of Veterans’ Appeals.

(Authority: 38 U.S.C. 7106)

§§ 19.54–19.74 [Reserved]

### Subpart D—Hearings Before the Board of Veterans’ Appeals at Department of Veterans Affairs Field Facilities

#### § 19.75 Field hearing docket.

Hearings on appeal held at Department of Veterans Affairs field facilities will be scheduled for each area served by a regional office in accordance with